

CONTRACT PERIOD THROUGH JUNE 30, 2004

TO: All Departments

FROM: Department of Materials Management

SUBJECT: Contract for **MOWING SERVICES, MARICOPA COUNTY FLOOD CONTROL DISTRICT**

Attached to this letter is published an effective purchasing contract for products and/or services to be supplied to Maricopa County activities as awarded by Maricopa County on **June 20, 2001**.

All purchases of products and/or services listed on the attached pages of this letter are to be obtained from the vendor holding the contract. Individuals are responsible to the vendor for purchases made outside of contracts. The contract period is indicated above.

Wes Baysinger, Director
Materials Management

SD/ag lc
Attach

Copy to: Clerk of the Board
Gabriela Varadi, MCFCD
Monica Mendoza, Materials Management

(Please remove Serial 96131-SC from your contract notebooks)

SPECIFICATIONS ON INVITATION FOR BID FOR: MOWING SERVICES, MARICOPA COUNTY FLOOD CONTROL DISTRICT

1.0 INTENT:

To award a contract for mowing services for a 3 year period to the lowest responsive and responsible vendor meeting specifications. ~~This bid is being solicited under the Maricopa County Privatization Policy and the internal department may bid on these services.~~ Areas to be mowed are listed in Section 2.20. Services are to be authorized by purchase order only.

2.0 TECHNICAL SPECIFICATIONS:

2.1 CONTRACTORS STATEMENT OF QUALIFICATIONS:

The Contractor shall furnish all necessary labor, tools, equipment, and supplies to perform the required services at the District facilities designated. The Operations and Maintenance Division Manager or his agent will decide all questions which may arise as to the quality and acceptability of any work performed under the contract. If, in the opinion of the Operations and Maintenance Division Manager or his agent, performance becomes unsatisfactory, the District shall notify the Contractor.

Bidders must submit a completed Qualifications Statement for performance of the work under this contract. This statement shall include a list of equipment available for performance of the work under this contract. The District reserves the right to reject any bid when, in its opinion, the Bidder has not demonstrated he will be properly equipped to perform the work in an efficient, effective manner during the contract period. Bids submitted without this statement may be considered non-responsive and rejected.

2.2 CONTRACTOR'S PERFORMANCE:

The Contractor shall furnish all necessary labor, tools, equipment, and supplies to perform the required services at the District facilities designated. The Operations and Maintenance Division Manager or his agent will decide all questions which may arise as to the quality and acceptability of any work performed under the contract. If, in the opinion of the Operations and Maintenance Division Manager or his agent, performance becomes unsatisfactory, the District shall notify the Contractor.

The Contractor will have two (2) days from that time to correct any specific instances of unsatisfactory performance. In the event the unsatisfactory performance is not corrected within the time specified above, the District shall have the immediate right to complete the work to its satisfaction and shall deduct the cost from any balances due or to become due the Contractor. Repeated incidence of unsatisfactory performance may result in cancellation of the agreement for default.

2.3 SUBCONTRACTORS:

2.3.1 The Contractor agrees not to assign or subcontract any of the work or obligations required of him under this agreement unless he first obtains the written consent of the District.

Nothing contained in the specifications shall be construed as creating any contractual relationship between any subcontractor and the District.

Contractors shall be fully responsible to the District for the acts and omissions of persons directly employed.

2.3.2 Qualifications Statement: The Bidder is required to state on the Qualifications Statement the subcontractors to be used in the performance of the proposed contract, their capabilities and experience and the portion of the work to be done by the subcontractor. Subcontractor's experience, skill, responsibility, and business standing may be cause for rejecting the bid. Contractors are required to submit an additional "Qualifications Statement" for the approval by the District at any time that an additional subcontractor may be added during the term of the contract.

2.4 SERVICE ADDITIONS/INTERRUPTIONS:

- 2.4.1 The District reserves the right to delete maintenance service areas during the contract period. In the event of such a deletion, the District will give the Contractor 30 days notice in writing prior to date of discontinuance of maintenance services and responsibilities.

Contractor will be allowed no compensation for loss of work due to said deletions.

- 2.4.2 Further, the District reserves the right to add maintenance service areas during the term of the contract. In the event the District and the Contractor cannot agree on maintenance charges, the District reserves the right to maintain the additional areas with District personnel or another contract.

- 2.4.3 The District also reserves the right to implement redesign projects of any service areas or portions thereof bid under this contract at any time during the term of the contract. In the event of such a project, the District will give the Contractor 30 days notice in writing prior to temporary suspension of mowing services and responsibilities, and will advise the Contractor in writing 15 days in advance of resumption of mowing services and responsibilities. All such notices issued by the District will specifically define the project location. The bid price for maintenance of the segment to undergo redesign shall be prorated and such payment shall be withheld from the Contractor during the temporary suspension of services. The Contractor will be allowed no compensation for loss of work during the redesign or construction period. Upon resumption of maintenance by the Contractor of any redesigned areas, the Contractor shall maintain these segments in accordance with all terms, conditions, and specifications set forth in this contract.

2.5 HAZARDS/SAFETY AND REPORTING:

During normal working hours, the Contractor shall obtain emergency medical care for any member of the public who is in need thereof, because of illness or injury occurring on the site. The Contractor shall cooperate fully with the District in the investigation of any accidental injury or death occurring on the site, including a prompt report within one (1) day thereof to the Operations and Maintenance Division Manager or his agent if they occur within the contract boundaries, an adjacent property, or the public right-of-way.

The District, through its designees, reserves the right to issue immediate restraints or cease or desist orders to Contractors when unsafe or harmful acts are observed or reported relative to the performance of the work under the contract.

Hazardous conditions, not caused or correctable by the Contractor, are to be immediately reported to the Operations and Maintenance Division Manager.

2.6 KEY CHARGES:

The Contractor(s) shall be required to supply his own locks and double-lock all gates.

2.7 MOWING SERVICE SCHEDULES:

- 2.7.1 The Contractor shall provide work schedules for each site which shall be submitted to the Operations and Maintenance Division Manager within ten (10) days after the effective date of the contract. Said work schedules shall be set on an annual calendar identifying the task and frequency of work. The schedule shall delineate the time frames for the landscape maintenance functions or tasks by day of the week, morning or afternoon. Work shall be scheduled such that it will not disrupt the functions and normal day-to-day procedures of the District. The District reserves the right to make suggested changes to the schedule set up by the Contractor, the specific requirements, and to establish the minimum requirements. It is expressly understood by the Contractor that the intent of this contract is to provide mowing services for the areas indicated. Thereafter, any changes in scheduling shall be submitted, in writing to the Operations and Maintenance Division Manager. The Contractor shall submit revised schedules when actual performance differs substantially from planned performance. Revisions shall be submitted to the Operations and Maintenance Division Manager within five (5) work days prior to scheduled time for the work.

- 2.7.2 The Contractor must make every effort to stay on schedule and shall complete all routine work during the calendar week that is scheduled, unless unforeseen circumstances out of the control of the Contractor cause delays. All scheduled items not completed during the week must be reported to the Operations and Maintenance Division Manager or his agent on Monday of the following week with an explanation of why the work was not completed. This report shall be in written form.
- 2.7.3 The District will determine if the work is not done on schedule constitutes a deficiency. The Contractor must gain approval of the District to do work more than one (1) day ahead of schedule. If prior approval is not requested or obtained, the District may refuse to pay for work items done two (2) or more days ahead of schedule.
- 2.7.4 Failure to submit schedules or revisions prior to commencement of routine work shall be considered breach of contract in accordance with this document.

2.8 WORK REPORT:

Daily, the Contractor will be required to compile a report of work items completed the previous day. The report will be submitted weekly by 12:00 noon the first workday after completion of that week's work. A facsimile machine may be used for this requirement. The Construction and Maintenance Division fax number is (602) 506-8561.

2.9 INSPECTIONS:

- 2.9.1 Monitoring will include every facet of operations outlined in the detailed specifications. The Operations and Maintenance Division Manager or his agent will serve as monitor to oversee adherence to the contract and to assist in resolving problems as they occur.
- 2.9.2 The Contractor shall perform maintenance inspections weekly during daylight hours of all sites. Such inspections shall be both visual and operational.
- 2.9.3 The District's monitor provides continuing inspection of the sites to ensure adequacy of maintenance and that methods of performing the work are in compliance with the specifications. Discrepancies and deficiencies in the work shall be noted in writing and (unless it is an emergency, in which case a phone call will suffice) brought to the attention of the Contractor's representative directly by the inspector, and shall be corrected by the Contractor within two (2) working days.
- 2.9.4 Failure to correct areas named deficient by the District may result in termination of the contract for default, unless written extensions have been authorized.

2.10 TYPE OF WORK SUPERVISION:

The Contractor shall provide supervision to assure competent performance of the mowing service.

The Contractor shall furnish at least one (1) Field Supervisor available during working hours for coordination with the District. The District has the right to review the qualifications of the supervisor. If the District does not feel the supervisor is qualified, the Contractor shall remove him/her from that position. The Contractor should provide and install a mobile radio and/or mobile phone in the Contractor's Field Supervisor's vehicle to enhance communications between the District and the Contractor's field representative. A telephone "pager" shall be the minimum to satisfy this condition. If the Contractor has mobile radios installed in his vehicles, a hand held unit and charger will be provided to the Operations and Maintenance Division Manager.

2.11 STORAGE:

The Contractor is to provide for all storage at off-site locations, delivering to the site only sufficient equipment and materials to complete daily tasks.

2.12 WASTE DISPOSAL:

The Contractor is responsible for removing and disposing from sites all waste handled and/or generated that day in performance of the contract. The District is not required to supply an on-site area or facility for storage or removal of Contractor waste.

All debris and other matter removed from the contract area shall be disposed of in compliance with Federal, State, County, and City laws. The Contractor is solely responsible for any disposal fees (dumping charges). The disposal must be at an authorized landfill.

2.13 WEATHER – SUSPENSION OF WORK:

The District reserves the right to suspend any or all work due to poor weather conditions or other extreme conditions.

2.14 LOCAL OFFICE:

The Contractor shall maintain a local office with a competent Contractor representative who can be contacted during normal working hours. A local office is one that can be reached from within the City of Phoenix without a toll call. An answering service or mobile telephone will fulfill the requirement for a local office. The Contractor must have a phone number for contact within one hour (60 minutes), Monday through Friday, during normal working hours.

2.15 PREVENTION OF ACCIDENT AND PROTECTION OF THE PUBLIC:

2.15.1 Barricades and electric warning lights and notices of types approved by the Operations and Maintenance Division Manager shall be erected and maintained by the Contractor in strict accordance with the latest edition with Maricopa County Department of Transportation's *Manual on Uniform Traffic Control Devices*, or the requirements of the local municipality, to the extent necessary to make the street reasonable safe for use by the public. As a minimum, warning signs shall be posted on Reach 1 of ACDC and EMF south of Broadway and north of Brown when mowing. The contractor shall submit a traffic control plan satisfactory to the O & M Division Manager.

2.15.2 The Contractor shall provide and maintain all barricades and other barriers related to his work during the period of the contract.

2.15.3 Work shall be accomplished with a minimum of traffic interruption. Wherever possible, the Contractor shall utilize turn-bays or deceleration lanes for temporary parking of vehicles and equipment; if it is not possible, the vehicle must be pulled completely off the roadway.

2.15.4 The Contractor shall provide dust control in residential areas if needed, **as directed by the Maricopa County Flood Control District, using a water truck at the bid per hour price. The District will supply water.**

2.16 END OF CONTRACT CONDITIONS:

During the last month of the contract, the Operations and Maintenance Division Manager and/or his agent and the Contractor will make a final inspection to determine the condition of all project areas. Areas found to be deficient by the outgoing Contractor will be listed and evaluated by the District. The District will arrange for deficiencies to be corrected and the costs will be deducted from final payments to the outgoing Contractor. The same will apply even if the current (outgoing) Contractor has been awarded a new contract or the contract extended. The last payment shall be that which is due for all work completed during the final sixty (60) days of the contract.

2.17 EQUIPMENT:

The Contractor shall provide and maintain during the entire period of this contract, equipment sufficient in number, operational condition, and capacity to efficiently perform the work and render the services required by this contract.

The Contractor shall furnish the District with a list identifying all equipment to be used in fulfilling this agreement and notify the District of any additions or deletions. All vehicles must be maintained in good repair, appearance, and sanitary conditions at all times. The District reserves the right to inspect the Contractor's vehicles at any time to ascertain said condition.

All vehicles used by the Contractor must be appropriately licensed and clearly identified with a vehicle number, the name of the company, address and phone number of local office on each side of the equipment, including personnel transportation vehicles. The letters shall be at least three inches high and of proportionate width.

2.18 PLANT MATERIAL AND PLANT WATERING SYSTEMS

2.18.1 The contractor shall be responsible for damage to or destruction of trees, shrubs, lawns, and ground cover resulting from his performance or lack thereof in accomplishing the scope of the contract.

2.18.2 The Contractor shall be responsible for any damages to existing irrigation systems that are caused by his actions or the actions of his employees.

The Operations and Maintenance Division Manager or his representative will inspect the irrigation system with the Contractor upon completion of mowing to check for damages to the system.

2.18.3 In the event of a disagreement as to the Contractor's cost liability for plant replacement or irrigation system damage, the Chief of Procurement, Materials Management Division shall make the final determination, based on a review of the circumstances causing plant or irrigation system destruction.

2.19 MOWING – TRIMMING – EDGING:

2.19.1 Prior to mowing, the contractor shall clean the area of all debris (paper, stones, bottles, and miscellaneous litter).

2.19.2 Mowing of seeded areas shall be conducted in a neat, orderly manner using appropriate equipment which is clean, sharp, and well-maintained. A grass catcher need not be used unless the Contractor has missed scheduled cutting due to weather or conditions beyond his control or when objects or grass thrown by the mower would create hazards to pedestrians or motorists. The Contractor shall remove all clippings, trimmings, scrap, litter, or debris before leaving the work site.

2.19.3 Edging shall be accomplished by using a standard power edger. Lawns shall be edged along curbs, sidewalks, driveways and their physical barriers, except bed dividers, when lawns are cut as required.

2.19.4 When large portions of any contract area are not mowable due to excessive ground moisture or standing water, the District may deduct a reasonable pro-rated amount based on the square footage of the area.

2.20 SCHEDULE:

2.20.1 Arizona Canal Diversion Channel (ACDC) approximately 125 acres

May 1 through October 15

Bottom Slopes Bike Path Edge

Frequency – 1 per month 1 per 3 mo. or as needed 2 per month

Height – 4 - 6 inches 4 - 6 inches 2-4 inches

October 16 through April 30

<u>Bottom</u>	<u>Slopes</u>	<u>Bike Path Edge</u>
Frequency – 2 X/(Growing season - Oct 1 - April 30) season)	of District to optimize seed dispersal & reseeding optimize seed dispersal & reseeding	1 per specification 1 per month

2.20.2 East Maricopa Floodway (EMF) approximately 471 acre

<u>Bottom</u>	<u>Slopes</u>
Frequency – 2 per year	1 per year **
Height – 4 - 6 inches	4 - 6 inches

** EMF Reach 6 - Slopes are mowed every two years on a rotating basis

2.21 SITE DISTURBANCE:

The Contractor shall make every effort to minimize tire marks and compaction of the soil due to driving and parking on non-paved areas.

2.22 ADDITIONS AND DELETIONS:

The District reserves the right to add or delete any item(s) with thirty (30) days notice, with appropriate and reasonable price adjustment.

2.23 METHOD OF PAYMENT:

The Contractor will be paid on a monthly basis in arrears. Invoices must contain the agreement number or bid number under which the purchase was awarded. The Contractor is to submit a monthly invoice to:

Accounts Payable, Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, Arizona, 85009.

2.24 **Contractor will be responsible for all feesor taxes levied by the Gila River Indian Reservation Government. It is the responsibility of Contractor to research what feesare applicable.**

2.25 TAX:

No tax shall be levied against labor. Bid pricing to include all labor, overhead, tools and equipment used, profit, and any taxes that may be levied. It is the responsibility of the bidder to determine any and all taxes and include the same in bid price.

3.0 SPECIAL TERMS & CONDITIONS:

3.1 CONTRACT LENGTH:

This Invitation For Bids is for awarding a firm, fixed price purchasing contract to cover a THREE (3) year period.

3.2 OPTION TO EXTEND:

The County may, at their option and with the approval of the Contractor, extend the period of this Contract up to a maximum of TWO (2), one (1) year options. The Contractor shall be notified in writing by the Materials Management Department of the County's intention to extend the contract period at least thirty (30) calendar days prior to the expiration of the original contract period.

3.3 INDEMNIFICATION

To the fullest extent permitted by law, the **CONTRACTOR** shall defend, indemnify, and hold harmless the **COUNTY**, its agents, representatives, officers, directors, officials, and employees from and against all claims, damages, losses and expenses, including but not limited to attorney fees, court costs, expert witness fees, and the cost of appellate proceedings, relating to, arising out of, or alleged to have resulted from the acts, errors, omissions or mistakes relating to the performance of this Contract. **CONTRACTOR'S** duty to defend, indemnify and hold harmless the **COUNTY**, its agents, representatives, officers, directors, officials, and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, or injury to, impairment, or destruction of property, including loss of use resulting therefrom, caused by any acts, errors, omissions or mistakes in the performance of this Contract including any person for whose acts, errors, omissions or mistakes, the **CONTRACTOR** may be legally liable.

The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph.

Abrogation of Arizona Revised Statutes Section 34-226:

In the event that A.R.S. § 34-226 shall be repealed or held unconstitutional or otherwise invalid by a court of competent jurisdiction, then to the fullest extent permitted by law, the **CONTRACTOR** shall defend, indemnify and hold harmless the **COUNTY**, its agents, representatives, officers, directors, officials and employees from and against all claims, damages, losses and expenses (including but not limited to attorney fees, court costs, and the cost of appellate proceedings), relating to, arising out of, or resulting from **CONTRACTOR'S** work or services. **CONTRACTOR'S** duty to defend, indemnify and hold harmless, the **COUNTY**, its agents, representatives, officers, directors, officials and employees shall arise in connection with any claim, damage, loss or expense that is attributable to bodily injury, sickness, disease, death, injury to, impairment or destruction of property including loss of use resulting therefrom, caused in whole or in part by any act or omission of the **CONTRACTOR**, anyone **CONTRACTOR** directly or indirectly employs or anyone for whose acts **CONTRACTOR** may be liable, regardless of whether it is caused in part by a party indemnified hereunder, including the **COUNTY**.

The amount and type of insurance coverage requirements set forth below will in no way be construed as limiting the scope of the indemnity in this paragraph.

The scope of this indemnification does not extend to the sole negligence of the **COUNTY**.

3.4 INSURANCE REQUIREMENTS

CONTRACTOR, at **CONTRACTOR'S** own expense, shall purchase and maintain the herein stipulated minimum insurance with companies duly licensed, possessing a current A.M. Best, Inc. Rating of B++6, or approved unlicensed companies in the State of Arizona with policies and forms satisfactory to the **COUNTY**.

All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of the Contract is satisfactorily completed and formally accepted. Failure to do so may, at the sole discretion of the **COUNTY**, constitute a material breach of this Contract.

The **CONTRACTOR'S** insurance shall be primary insurance as respects the **COUNTY**, and any insurance or self-insurance maintained by the **COUNTY** shall not contribute to it.

Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect coverage afforded under the insurance policies to protect the **COUNTY**.

The insurance policies may provide coverage which contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to the **COUNTY** under such policies. The **CONTRACTOR** shall be solely responsible for the deductible and/or self-insured retention and the **COUNTY**, at its option, may require the **CONTRACTOR** to secure payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

The **COUNTY** reserves the right to request and to receive, within 10 working days, certified copies of any or all of the herein required insurance policies and/or endorsements. The **COUNTY** shall not be obligated, however, to review such policies and/or endorsements or to advise **CONTRACTOR** of any deficiencies in such policies and endorsements, and such receipt shall not relieve **CONTRACTOR** from, or be deemed a waiver of the **COUNTY'S** right to insist on strict fulfillment of **CONTRACTOR'S** obligations under this Contract.

The insurance policies required by this Contract, except Workers' Compensation, shall name the **COUNTY**, its agents, representatives, officers, directors, officials and employees as Additional Insureds.

The policies required hereunder, except Workers' Compensation, shall contain a waiver of transfer of rights of recovery (subrogation) against the **COUNTY**, its agents, representatives, officers, directors, officials and employees for any claims arising out of **CONTRACTOR'S** work or service.

3.4.1 Commercial General Liability. **CONTRACTOR** shall maintain Commercial General Liability insurance with a limit of not less than \$1,000,000 for each occurrence with a \$2,000,000 Products/Completed Operations Aggregate and a \$2,000,000 General Aggregate Limit. The policy shall include coverage for bodily injury, broad form property damage, personal injury, products and completed operations and blanket contractual coverage including, but not limited to, the liability assumed under the indemnification provisions of this Contract which coverage will be at least as broad as Insurance Service Office, Inc. Policy Form CG 00 01 10 93 or any replacements thereof.

The policy shall contain a severability of interest provision, and shall not contain a sunset provision or commutation clause, or any provision which would serve to limit third party action over claims.

The Commercial General Liability additional insured endorsement shall be at least as broad as the Insurance Service Office, Inc.'s Additional Insured, Form CG 20 10 11 85, and shall include coverage for **CONTRACTOR'S** operations and products and completed operations.

If the **CONTRACTOR** subcontracts any part of the work, services or operations awarded to the **CONTRACTOR**, he shall purchase and maintain, at all times during prosecution of the work, services or operations under this Contract, an Owner's and Contractor's Protective Liability insurance policy for bodily injury and property damage, including death, which may arise in the prosecution of the **CONTRACTOR'S** work, service or operations under this Contract. Coverage shall be on an occurrence basis with a limit not less than \$1,000,000 per occurrence, and the policy shall be issued by the same insurance company that issues the **CONTRACTOR'S** Commercial General Liability insurance.

3.4.2 Automobile Liability. **CONTRACTOR** shall maintain Automobile Liability insurance with an individual single limit for bodily injury and property damage of no less than \$1,000,000, each occurrence, with respect to **CONTRACTOR'S** vehicles (whether owned, hired, non-owned), assigned to or used in the performance of this Contract.

3.4.3 Workers' Compensation. The **CONTRACTOR** shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of **CONTRACTOR'S** employees engaged in the performance of the work or services, as well as Employer's Liability insurance of not less than \$1,000,000 for each accident, \$1,000,000 disease for each employee, and \$1,000,000 disease policy limit.

In case any work is subcontracted, the **CONTRACTOR** will require the Subcontractor to provide Workers' Compensation and Employer's Liability insurance to at least the same extent as required of the **CONTRACTOR**.

3.5 CERTIFICATES OF INSURANCE

Prior to commencing work or services under this Contract, **CONTRACTOR** shall furnish the **COUNTY** with Certificates of Insurance, or formal endorsements as required by the Contract, issued by **CONTRACTOR'S** insurer(s), as evidence that policies providing the required coverages, conditions and limits required by this Contract are in full force and effect. Such certificates shall identify this contract number and title.

In the event any insurance policy (ies) required by this contract is (are) written on a "claims made" basis, coverage shall extend for two years past completion and acceptance of the **CONTRACTOR'S** work or services and as evidenced by annual Certificates of Insurance.

If a policy does expire during the life of the Contract, a renewal certificate must be sent to the **COUNTY** fifteen (15) days prior to the expiration date.

3.6 CANCELLATION AND EXPIRATION NOTICE:

Insurance required herein shall not expire, be canceled, or materially changed without thirty (30) days prior written notice to the **COUNTY**.

3.7 TERMS AND PAYMENT:

Payment under contract will be made in the manner provided by law. Invoices shall be prepared and submitted in accordance with the instructions provided on the Purchase Order. Invoices shall contain the following information: Purchase Order number, item numbers, description of supplies and or/services, sizes, quantities, unit prices and extended totals and applicable sales/use tax. The County is not subject to excise tax.

3.8 PROCUREMENT CARD ORDERING CAPABILITY:

It is the intent of Maricopa County to utilize the Bank of America MC Procurement Card or other procurement card that may be used by the County from time to time, to place and make payment for orders under this Contract. Bidders without this capability maybe considered non-responsive and not eligible for award consideration.

Purchase Card Clarification.

Maricopa County's Bank of America Purchase Card program is based on the MasterCard charge card. There is no charge from Maricopa County for the program, any costs or charges to the vendor or contractor will be based on the transaction dollar amount and is from the Vendors/contractors servicing Bank. The vendor/contractor should contact their bank to arrange for the acceptance and information concerning any charges to use this program.

The advantages of accepting the purchase card for payment are as follows.

1. The bank pays the vendor/contractor in 48 to 72 hours versus 30 days from Maricopa County.
2. The vendor/contractor does not have to invoice Maricopa County.
3. The vendor/contractor does not have to carry that transaction in their account receivable.

Maricopa County offers this opportunity only to vendors/contractors that are not 1099 reportable to the Internal Revenue Service. Maricopa County will be asking those vendors/contractors that are offered this opportunity to give the County a prompt payment discount.

3.9 PROMPT PAYMENT DISCOUNT:

Maricopa County, through its "Purchase Card Process" has initiated changes that are intended to both improve and expedite the purchasing and payment process. In light of these efforts, Bidders are strongly encouraged to offer Maricopa County prompt payment discounts for this service and take into consideration receipt of payment with seventy-two (72) hours from time of payment processing. Discounts offered will be considered in the evaluation price analysis process.

3.10 INQUIRIES:

All inquiries concerning information contained herein shall be addressed to:

MARICOPA COUNTY
DEPARTMENT OF MATERIALS MANAGEMENT
ATTN: CONTRACT ADMINISTRATION
320 WEST LINCOLN
PHOENIX AZ 85003

Administrative telephone inquiries shall be addressed to:

STEVE DAHLE, SENIOR PROCUREMENT CONSULTANT – (602) 506-3450
Technical Telephone inquiries shall be addressed to:

GABRIELA VARADI, MCFCD (602) 506-4712

Inquiries may be submitted by telephone but must be followed up in writing. No oral communication is binding on Maricopa County.

3.11 PRE-BID CONFERENCE:

**THERE WILL BE A MANDATORY PRE-BID CONFERENCE ON APRIL 17, 2001 AT 9:00 AM
THE MARICOPA COUNTY FLOOD CONTROL DISTRICT OFFICES, 2801 WEST DURANGO
ST., PHOENIX, AZ 85009, SPOOK HILL CONFERENCE ROOM**

4.0 CONTRACT TERMS AND CONDITIONS:

4.1 LANGUAGE FOR REQUIREMENTS CONTRACTS:

Contractors signify their understanding and agreement by signing this document, that the Contract resulting from this bid will be a requirements contract. However, this Contract does not guarantee that any purchases will be made. It only indicates that if purchases are made for the services contained in this Contract, that they will be purchased from the Contractor awarded that item. Orders will only be placed when a need is identified by a Using Agency or Department and proper authorization and documentation have been approved.

4.2 ESCALATION:

Any requests for price adjustments must be submitted thirty (30) days prior to the Contract renewal date. Justification for the requested adjustment in cost of labor and/or materials must be accompanied by appropriate documentation. Escalation shall not exceed the increase in the U.S. Department of Labor (Bureau of Labor Statistics) Consumer Price Index for Urban Consumers. Increases shall be approved in writing by the Materials Management Department prior to any adjusted invoicing submitted for payment.

4.3 UNCONDITIONAL TERMINATION FOR CONVENIENCE:

Maricopa County may terminate the resultant Contract for convenience by providing sixty (60) calendar days advance notice to the Contractor.

4.4 TERMINATION FOR DEFAULT:

If the Contractor fails to meet deadlines, or fails to provide the agreed upon service/material altogether, a termination for default will be issued. The termination for default will be issued only after it is deemed by the County, that the Contractor has failed to remedy the problem after being forewarned.

4.5 TERMINATION BY THE COUNTY:

If the Contractor should be adjudged bankrupt or should make a general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency, the County may terminate this Contract. If the Contractor should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to provide enough properly skilled workers or proper materials, or persistently disregard laws and ordinances, or not proceed with work or otherwise be guilty of, a substantial violation of any provision of this Contract, then the County may terminate this Contract. Prior to termination of this Contract, the County shall give the Contractor fifteen (15) calendar days written notice. Upon receipt of such termination notice, the Contractor shall be allowed fifteen (15) calendar days to cure such deficiencies.

4.6 APPROPRIATION CONTINGENCY:

The Contractor recognized that any agreement entered into shall commence upon the day first provided and continued in full force and effect until termination in accordance with its provisions. The Contractor and the County herein recognized that the continuation of any contract after the close of any given fiscal year of the County which fiscal years end on June 30 of each year, shall be subject to the approval of the budget of the County providing for or covering such contract item as an expenditure therein. The County does not represent that said budget item will be actually adopted, said determination being the determination of the County Board of Supervisors at the time of the adoption of the budget.

4.7 ORGANIZATION - EMPLOYMENT DISCLAIMER:

The Contract is not intended to constitute, create, give rise to or otherwise recognize a joint venture contract or relationship, partnership or formal business organization of any kind, and the rights and obligations of the parties shall be only those expressly set forth in the Contract.

The parties agree that no persons supplied by the Contractor(s) in the performance of obligations under the contract are considered to be County employees, and that no rights of County civil service, retirement or personnel rules accrue to such persons. The Contractor(s) shall have total responsibility for all salaries, wages, bonuses, retirement withholdings, workmen's compensation, other employee benefits and all taxes and premiums appurtenant thereto concerning such persons, and shall save and hold the County harmless with respect thereto.

4.8 STATUTORY RIGHT OF CANCELLATION FOR CONFLICT OF INTEREST:

Notice is given that pursuant to A.R.S. § 38-511 the County may cancel this Contract without penalty or further obligation within three years after execution of the contract, if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County is at any time while the Contract or any extension of the Contract is in effect, an employee or agent of any other party to the contract in any capacity or consultant to any other party of the Contract with respect to the subject matter of the Contract. Additionally, pursuant to A.R.S. § 38-511 the County may recoup any fee or commission paid or due to any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the County from any other party to the contract arising as the result of the contract.

4.9 OFFSET FOR DAMAGES:

In addition to all other remedies at Law or Equity, the County may offset from any money due to the Contractor any amounts Contractor owes to the County for damages resulting from breach or deficiencies in performance under this contract.

4.10 ADDITIONS/DELETIONS OF SERVICE:

The County reserves the right to add and/or delete services to this Contract. Should a service requirement be deleted, payment to the Contractor will be reduced proportionally, to the amount of service reduced in accordance with the bid price. Should additional services be required from this Contract, prices for such additions will be negotiated between the Contractor and the County.

4.11 SUBCONTRACTING:

The Contractor may not assign this Contract or Subcontract to another party for performance of the terms and conditions hereof without the written consent of the County. All correspondence authorizing subcontracting must reference the Bid Serial Number and identify the job project.

The Subcontractor's rate for the job shall not exceed that of the Prime Contractor's rate, as bid in the pricing section, unless the Prime Contractor is willing to absorb any higher rates. The Subcontractor's invoice shall be invoiced directly to the Prime Contractor, who in turn shall pass-through the costs to the County, without mark-up. A copy of the Subcontractor's invoice must accompany the Prime Contractor's invoice.

4.12 AMENDMENTS:

All amendments to this Contract must be in writing and signed by both parties.

4.13 CONFORMATION WITH THE LAW:

This service shall be accomplished in conformity with the laws, ordinances, rules, regulations and zoning restrictions of the United States of America, the State of Arizona, County of Maricopa, and the City of Phoenix.

4.14 CONTRACT COMPLIANCE MONITORING:

The Materials Management Department and the using Agency (ies) shall monitor the Contractors compliance with, and performance under, the terms and conditions of the Contract. The Contractor shall make available for inspection and/or copying by the County all records and accounts relating to the work performed or the services provided in this Contract.

4.15 RETENTION OF RECORDS:

The Contractor agrees to retain all financial books, records, and other documents relevant to this Contract for five (5) years after final payment or until after the resolution of any audit questions which could be more than five (5) years, whichever is longer. The Department, Federal or State auditors and any other persons duly authorized by the Department shall have full access to, and the right to examine, copy and make use of any and all said materials.

4.16 ADEQUACY OF RECORDS:

If the Contractor's books, records and other documents relevant to this Contract are not sufficient to support and document that allowable services were provided. The Contractor shall reimburse Maricopa County for the services not so adequately supported and documented.

4.17 AUDIT DISALLOWANCES:

If at any time it is determined by the Department that a cost for which payment has been made is a disallowed cost, the Department shall notify the Contractor in writing of the disallowance and the required course of action, which shall be at the option of the Department either to adjust any future claim submitted by the Contractor by the amount of the disallowance or to require repayment of the disallowed amount by the Contractor forthwith issuing a check payable to Maricopa County.

4.18 P.O. CANCELLATION LANGUAGE:

The Department of Materials Management reserves the right to cancel Purchase Orders within a reasonable period of time after issuance. Should a Purchase Order be canceled, the County agrees to reimburse the Contractor but only for actual and documentable costs incurred by the Contractor due to and after issuance of the Purchase Order. The County will not reimburse the Contractor for any costs incurred after receipt of County notice of cancellation, or for lost profits, shipment of product prior to issuance of Purchase Order, etc.

Contractors agree to accept verbal notification of cancellation from the Department of Materials Management with written notification to follow. By submitting a bid in response to this Invitation For Bids, the Contractor specifically acknowledges to be bound by this cancellation policy.

4.19 VALIDITY:

The invalidity, in whole or in part, of any provision of this Contract shall not void or affect the validity of any other provision of this Contract.

4.20 CONTRACTOR RESPONSIBILITY:

The Contractor will be responsible for any damages whatsoever to County property as applicable when such property is the responsibility or in the custody of the Contractor, his employees or Subcontractors.

4.21 GUARANTEE:

The materials and supplies called herein shall be the best of their grade and types, prepared according to the best available standards or accepted formulas, and thoroughly tested and subjected to rigid examination and standardization. Items not meeting these requirements shall be replaced at no cost to the County upon due notice of deficiency.

4.22 DELIVERY:

It shall be the Contractor responsibility to meet the County's delivery requirements, as called for in the Technical Specifications. Maricopa County reserves the right to obtain services on the open market in the event the Contractor fails to make delivery and any price differential will be charged against the Contractor.

4.23 PRICE REDUCTIONS:

By submitting a bid in response to this solicitation, Contractors agree to guarantee that Maricopa County is receiving the lowest price offered by your company to other customers for similar services at comparable volumes in a similar geographic area. If at any time during the contract period your company offers a lower price to another customer, **SIMILAR PRICES MUST BE EXTENDED TO MARICOPA COUNTY** If a notification IS not made of said price reductions, upon discovery Maricopa County shall reserve the right to take any or all of the following actions:

4.23.1 Cancel the Contract, if it is currently in effect.

4.23.2 Determine the amount which the County was overcharged and submit a request for payment from the Contractor for that amount.

4.23.3 Take the necessary steps to collect any performance surety provided on the applicable contract.

4.24 RIGHTS IN DATA:

The County shall have the use of data and reports resulting from this Contract without additional cost or other restriction except as may be established by law or applicable regulation. Each party shall supply to the other party, upon request, any available information that is relevant to this Contract and to the performance hereunder.

4.25 SECURITY AND PRIVACY:

The Contractor agrees that none of its officers or employees shall use or reveal any research or statistical information furnished by any person and identifiable to any specific private person for any purpose other than the purpose for which it was obtained. Copies of such information shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceedings, unless ordered by a court of competent jurisdiction. The County shall be notified immediately upon receipt of any such order of court, pertaining to production of such information.

The Contractor shall incorporate the foregoing provisions of this paragraph in all of its authorized subcontracts.

TRUGREEN LANDCARE LLC, 4350 E CAMELBACK ROAD #A-240, PHOENIX, AZ 85018 6143 S 32ND ST., PHOENIX, AZ 85042

WILLING TO ACCEPT FUTURE SOLICITATIONS VIA EMAIL: ☒ YES ☐ NO

ACCEPT PROCUREMENT CARD: ☐ YES ☒ NO

REBATE (CASH OR CREDIT) FOR UTILIZING PROCUREMENT CARD: ☐ YES ☒ NO ☐
(Payment shall be made within 48 hrs utilizing the Purchasing Card)

INTERNET ORDERING CAPABILITY: ☐ YES ☒ NO ☐

OTHER GOV'T. AGENCIES MAY USE THIS CONTRACT: ☒ YES ☐ NO

S007802 ~~S073406~~/B0602771

6.0 PRICING:

6.1 ACDC Reach 1 WEST SIDE (approximately 125 acres)

6.1.1 Based on 11,932 linear feet of channel 125.42 acres

May - October	YEAR 1		YEAR 2		YEAR 3	
	Cost per Mow	Frequency	Cost per Mow	Frequency	Cost per Mow	Frequency
Slopes 55.6 ac.	<u>\$ 4,833.00</u>	2X	<u>\$ 4,978.00</u>	2X	<u>\$ 5,127.00</u>	2X
Bottom 61.6 ac.	<u>\$ 1,363.00</u>	6X	<u>\$ 1,404.00</u>	6X	<u>\$ 1,446.00</u>	6X
Bike Paths 8.2 ac.	<u>\$ 181.00</u>	12X	<u>\$ 186.00</u>	12X	<u>\$ 191.00</u>	12X
		TOTAL	<u>\$20,016.00</u>	TOTAL	<u>\$20,612.00</u>	TOTAL <u>\$21,222.00</u>
October - April						
Slopes 55.6 ac.	<u>\$ 4,833.00</u>	1X	<u>\$ 4,978.00</u>	1X	<u>\$ 5,127.00</u>	1X
Bottom 61.6 ac.	<u>\$ 1,363.00</u>	2X	<u>\$ 1,404.00</u>	2X	<u>\$ 1,446.00</u>	2X
Bike Paths 8.2 ac.	<u>\$ 181.00</u>	6X	<u>\$ 186.00</u>	6X	<u>\$ 191.00</u>	6X
		TOTAL	<u>\$ 8,645.00</u>	TOTAL	<u>\$ 8,902.00</u>	TOTAL <u>\$ 9,165.00</u>
		GRAND TOTAL	<u>\$28,661.00</u>	GRAND TOTAL	<u>\$29,514.00</u>	GRAND TOTAL <u>\$30,387.00</u>

TRUGREEN LANDCARE LLC, 4350 E CAMELBACK ROAD #A-240, PHOENIX, AZ 85018 6143 S 32ND ST., PHOENIX, AZ 85042

6.2 EMF EAST SIDE (approximately 471 acres)

6.2.1 Based on 471.6 acres of mowable channel

	YEAR 1 Price per Mow	Frequency	YEAR 1 Price per Mow	Frequency	YEAR 1 Price per Mow	Frequency
Slopes 146.32 ac.	<u>\$12,720.00</u>	1X	<u>\$13,101.00</u>	1X	<u>\$13,494.00</u>	1X
Bottom 325.28	<u>\$ 7,200.00</u>	2X	<u>\$ 7,416.00</u>	2X	<u>\$ 7,638.50</u>	2X
		TOTAL	<u>\$27,120.00</u>	TOTAL	<u>\$27,933.00</u>	TOTAL <u>\$28,771.00</u>

	YEAR 1	YEAR 2	YEAR 3
6.3 VARIOUS MOWING COUNTY WIDE	<u>\$ 65.00</u> /PER ACRE	<u>\$ 70.00</u> /PER ACRE	<u>\$ 75.00</u> /PER ACRE

Terms: NET 30

Federal Tax ID Number 36-4313318

Vendor Number: 364313318

Telephone Number: 602/276-4311

Fax Number: 602/276-4383

E-Mail Address: michael-grossnd@landcare.com

Company Web site: www.trugreen.com

Contact Person Michael Grossand

Contract Period: To cover the period ending June 30, 2004.